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Attorneys for Defendants  
TATE & KIRLIN ASSOCIATES, INC. ET AL.

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

VERONICA CARDONA,

Plaintiff,

v.

TATE & KIRLIN ASSOCIATES, INC.  
ET AL.,

Defendant.

Case No.:

**NOTICE OF REMOVAL OF ACTION  
UNDER 28 USC § 1441(b) (FEDERAL  
QUESTION)**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant TATE & KIRLIN ASSOCIATES, INC.  
hereby removes to this Court the state court action described below:

1. On November 13, 2018, an action was commenced in Superior Court, State  
of California, Santa Barbara County, entitled VERONICA CARDONA, Plaintiff, v.  
TATE & KIRLIN ASSOCIATES, INC., Defendant, as case number 18cv05610.

2. On or about November 16, 2018, TATE & KIRLIN ASSOCIATES, INC.,  
was served with the Summons and Complaint, attached hereto as **Exhibit A**.

3. This Court has jurisdiction to hear this case because this action is a civil  
action of which this Court has original jurisdiction under **28 U.S.C. § 1331**, and is one  
which may be removed to this Court by defendant pursuant to the provisions of **28**  
**U.S.C. § 1441(b)** in that it necessarily raises a federal issue, actually disputed and

1 substantial, which a federal forum may entertain without disturbing any congressionally  
2 approved balance of federal and state judicial responsibilities.” *Cook Inlet Region, Inc.*  
3 *v. Rude* (9<sup>th</sup> Cir. 2012) 690 F.3d 1127, 1130; *Grable & Sons Metal Products, Inc. v.*  
4 *Darue* (2005) 545 U.S. 308, 312.

5 Dated: December 14, 2018

6 ELLIS LAW GROUP, LLP

7 By

8   
MARK E. ELLIS  
9 Attorney for Defendants  
TATE & KIRLIN ASSOCIATES, INC. ET AL.

**EXHIBIT A**

SUM-100

# SUMMONS (CITACION JUDICIAL)

## NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

TATE & KIRLIN ASSOCIATES, INC.; AND, DOES 1-20,  
INCLUSIVE,

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

VERONICA CARDONA

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
11/13/2018 8:00 AM  
By: Isabel Navarro, Deputy

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): SUPERIOR COURT OF CALIFORNIA

CASE NUMBER:  
(Número del Caso): 18CV05610

312-C East Cook Street  
Santa Maria, CA 93454

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Elizabeth A. Wagner, 1303 East Grand Avenue, Suite 101, Arroyo Grande, CA 93420

DATE:  
(Fecha)

11/13/2018

Clerk, by  
(Secretario)

/s/ Isabel Navarro

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

## NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

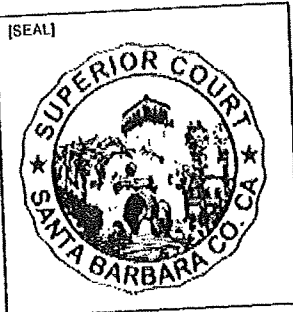
☐ other (specify):

- ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)



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19 *Attorneys for Plaintiff,*

20 Veronica Cardona

21 **SUPERIOR COURT OF CALIFORNIA**  
22 **COUNTY OF SANTA BARBARA – COOK DIVISION – LIMITED CIVIL**

23 **VERONICA CARDONA,**

24 Plaintiff,

25 v.

26 **TATE & KIRLIN ASSOCIATES,**  
27 **INC.; AND, DOES 1-20,**  
28 **INCLUSIVE,**

Defendant.

Case No.: 18CV05610

**COMPLAINT FOR DAMAGES  
FOR VIOLATION OF THE  
ROSENTHAL FAIR DEBT  
COLLECTION PRACTICES ACT,  
CAL. CIV. CODE § 1788, ET SEQ.  
JURY TRIAL DEMANDED**

**LIMITED – UNDER \$10,000**

Case No.:

*Cardona v. Tate & Kirlin Associates, Inc.*

**COMPLAINT**

## INTRODUCTION

1. The California legislature has determined that the banking and credit system and grantors of credit to consumers are dependent upon the collection of just and owing debts and that unfair or deceptive collection practices undermine the public confidence that is essential to the continued functioning of the banking and credit system and sound extensions of credit to consumers. The Legislature has further determined that there is a need to ensure that debt collectors exercise this responsibility with fairness, honesty, and due regard for the debtor's rights and that debt collectors must be prohibited from engaging in unfair or deceptive acts or practices.<sup>1</sup>
2. Plaintiff VERONICA CARDONA ("Plaintiff") through Plaintiff's attorneys, brings this lawsuit to challenge the actions of Defendant TATE & KIRLIN ASSOCIATES, INC. ("Defendant") with regard to attempts by Defendant, a debt collector, to unlawfully and abusively collect a debt allegedly owed by Plaintiff, and this conduct caused Plaintiff damages.
3. Plaintiff makes these allegations on information and belief, with the exception of those allegations that pertain to a Plaintiff, or to a Plaintiff's counsel, which Plaintiff alleges on personal knowledge.
4. While many violations are described below with specificity, this Complaint alleges violations of the statutes cited in their entirety.
5. Unless otherwise stated, Plaintiff alleges that any violations by Defendant were knowing and intentional, and that Defendant did not maintain procedures reasonably adapted to avoid any such violation.
6. Unless otherwise indicated, the use of any Defendant's name in this Complaint includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers of that Defendant named.

<sup>1</sup> Cal. Civ. Code §§ 1788.1 (a)-(b)



JURISDICTION AND VENUE

7. Jurisdiction of this Court is proper because the events leading to Plaintiff's cause of action occurred in Santa Barbara County and the State of California.
8. This action arises out of Defendant's violations of the Rosenthal Fair Debt Collection Practices Act, California Civil Code §§ 1788, *et seq.* ("RFDCPA").
9. Because Defendant conducts business within the State of California, personal jurisdiction is established.
10. Venue is proper.

PARTIES

11. Plaintiff is a natural person who resides in the City of Santa Maria, Santa Barbara County, State of California, from whom a debt collector sought to collect a consumer debt which was due and owing or alleged to be due and owing from Plaintiff.
12. Plaintiff is a "debtor" as that term is defined by Cal. Civ. Code § 1788.2(h).
13. Plaintiff is informed and believes, and thereon alleges, that Defendant is located in the State of Pennsylvania.
14. Plaintiff is informed and believes, and thereon alleges, that Defendant, in the ordinary course of business, regularly, on behalf of themselves or others, engage in "debt collection" as that term is defined by California Civil Code § 1788.2(b), and is therefore a "debt collector" as that term is defined by California Civil Code § 1788.2(c).
15. This case involves money, property or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. As such, this action arises out of a "consumer debt" and "consumer credit" as those terms are defined by Cal. Civ. Code § 1788.2(f).

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16. The true names and capacities, whether individual, corporate (including officers and directors thereof), associate or otherwise of Defendants sued herein as DOES 1 through 20, inclusive, are unknown to Plaintiff, who therefore sues these Defendants by such fictitious names, pursuant to the California Civil Procedure Code § 474. Plaintiff is informed and believes, and thereon alleges that each Defendant designated as a DOE is involved in or is in some manner responsible as a principal, beneficiary, agent, co-conspirator, joint venturer, alter ego, third-party beneficiary, or otherwise, for the agreements, transactions, events and/or acts hereinafter described, and thereby proximately caused injuries and damages to Plaintiff. Plaintiff request that when the true names and capacities of these DOE Defendants are ascertained, they may be inserted in all subsequent proceedings, and that this action may proceed against them under their true names.

17. Plaintiff is informed and believes, and thereon alleges that at all times herein mentioned, Defendants DOES 1 through 20, were agents or employees of each of their co-defendants and, in doing the things hereafter mentioned, each was acting in the scope of his authority as such agent or employee and with the permission and consent of their co-defendants, and each of them.

#### FACTUAL ALLEGATIONS

18. At all times relevant, Plaintiff is an individual residing within the State of California.

19. Plaintiff is informed and believes, and thereon alleges, that at all times relevant, Defendant conducted business in the State of California.

20. Sometime prior to 2018, Plaintiff incurred financial obligations to Defendant that were money, property, or their equivalent, which are due or owing, or alleged to be due or owing, from a natural person to another person and were therefore "debt(s)" as that term is defined by California Civil Code §1788.2(d) and a "consumer debt" as that term is defined by California Civil Code



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§1788.2(f).

21. Sometime thereafter, Plaintiff allegedly fell behind in the payments allegedly owed on the alleged debt.

22. As a result of Plaintiff's alleged delinquency, Plaintiff has received written communications from Defendant attempting to collect Plaintiff's alleged debt. These letters constitute "debt collection" as that phrase is defined by Cal. Civ. Code § 1788.2(b).

23. On September 30, 2018, Plaintiff informed Defendant via certified mail that Plaintiff refused to pay Plaintiff's alleged debt alleged to be owed to Defendant.

24. Plaintiff's refusal to pay letter was received by Defendant on October 09, 2018 at 2:18 p.m.

25. Despite receiving Plaintiff's written request, Defendant has continued to contact Plaintiff with regard to Plaintiff's alleged debt, including, but not limited to, written communications dated October 16, 2018.

26. Such contact after a refusal to pay letter was received constitutes a violation of 15 U.S.C. § 1692c(c), which is incorporated into the RFDCPA through Cal. Civ. Code § 1788.17. Thus, Defendant has also violated Cal. Civ. Code § 1788.17.

# CAUSE OF ACTION CLAIMED BY PLAINTIFF

## COUNT I

### VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

Cal. Civ. Code §§ 1788-1788.32 (RFDCPA)

### [AGAINST ALL DEFENDANTS]

27. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

28. The foregoing acts and omissions constitute numerous and multiple violations of the RFDCPA.

29. As a result of each and every violation of the RFDCPA, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from each Defendant individually.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for:

- An award of actual damages, in an amount to be determined at trial, pursuant to Cal. Civ. Code § 1788.30(a), against each named Defendant individually;
- An award of statutory damages of \$1,000.00, pursuant to Cal. Civ. Code § 1788.30(b), against each named Defendant individually;
- An award of costs of litigation and reasonable attorney's fees, pursuant to Cal. Civ. Code § 1788.30(c), against each named Defendant individually;
- Any and all other relief that this Court deems just and proper.

#### TRIAL BY JURY

30. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: November 12, 2018

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: 

ELIZABETH A. WAGNER, ESQ.  
ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I, Betty Henkle, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 1425 River Park Drive, Suite 400, Sacramento, CA 95815.

On December 14, 2018, I served the following document(s) on the parties in the within action:

**NOTICE OF REMOVAL OF ACTION UNDER 28 USC § 1441(b) (FEDERAL QUESTION)**

**X**

**BY MAIL:** I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Sacramento, CA on this date, addressed as follows:

Elizabeth A. Wagner  
Abbas Kazerounian  
Kazerouni Law Group, APC  
1303 East Grand Avenue  
101  
Arroyo Grande, CA 93420

Attorneys for  
Veronica Cardona

Joshua B. Swigart  
Hyde & Swigart  
2221 Camino Del Rio South  
Suite 101  
San Diego, CA 92108

Attorneys for  
Veronica Cardona

I declare under penalty of perjury under the laws of the United States of America that the foregoing is a true and correct statement and that this Certificate was executed on December 14, 2018.

By. 

Betty Henkle